

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION**

United States of America,	)	
	)	
Plaintiff,	)	Criminal No.: 4:00-cr-419
	)	
vs.	)	
	)	
Rochelle McBride,	)	<b>ORDER</b>
	)	
Defendant.	)	
_____	)	

On August 2, 2006, the defendant moved to amend or correct the judgment and to grant her early release. The defendant claims that no one is available to care for her children because her husband is in Iraq. Only 28 U.S.C. § 2555 authorizes a district court to grant the relief sought by the defendant.

On December 10, 2007, the Court advised the defendant of its intent to recharacterize the motion as one pursuant to § 2255. *See United States v. Emmanuel*, 288 F.3d 644, 649 (4th Cir. 2002) (requiring notice to a defendant before a district court, *sua sponte*, converts a motion to one under § 2255). The Court gave the defendant 60 days to object to the proposed recharacterization. The defendant failed to object. Therefore, the Court recharacterizes the defendant’s motion to grant her early release as a § 2255 petition.

A § 2255 petition must be filed within one year of final judgment. The defendant’s § 2255 petition is not timely. On February 8, 2002, the Fourth Circuit Court of Appeals affirmed the defendant’s sentence. The defendant filed her motion to vacate or amend her sentence on August 2, 2006, four years after the defendant’s sentence became final.

The defendant's § 2255 petition is dismissed as untimely.

**AND IT IS SO ORDERED.**

A handwritten signature in black ink that reads "C. Weston Houck". The signature is written in a cursive, slightly slanted style.

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**C. WESTON HOUCK  
UNITED STATES DISTRICT JUDGE**

February 22, 2008  
Charleston, South Carolina